

REMARKS/ARGUMENTS

Claims 1-9, 12-15, 18-26, 28-31, 34-40 and 42-44 are pending in the present application. The Examiner has rejected claims 1-9, 12-15, 18-26, 28-31, 34-40, and 42-44. Applicant respectfully requests reconsideration of pending claims 1-9, 12-15, 18-26, 28-31, 34-40 and 42-44.

The Examiner has rejected claim 42 under 35 U.S.C. §102(e) as allegedly being anticipated by Rochberger et al, (U.S. Patent No. 6,594,235). Applicant respectfully disagrees.

Regarding claim 42, Applicant submits the cited portions of the cited reference fail to disclose the subject matter of claim 42. As an example, Applicant submits the cited portions of the cited reference fail to disclose "...wherein triggering a reroute further comprises evaluating a new connection such that rerouting to the new connection occurs when the new connection provides better latency performance than the connection." While the Examiner cites "('YES' from the decision step 62 in Figure 4)," Applicant notes step 62 states "NEW ROUTE WITHIN ORIGINAL OPTIMIZATION PERCENTAGE AND BETTER THAN PRESENT ROUTE?" Applicant submits the cited portion of the cited reference fails to disclose, for example, "...better latency performance." Applicant submits the Examiner has not made a *prima facie* showing of anticipation with respect to claim 42.

As another example, Applicant submits the cited portions of the cited reference fail to disclose "triggering a reroute of the connection in the control plane based on the fault detected...." While the Examiner cites "(step 60 in Figure 4)," Applicant notes step 60 states, "CALCULATE REROUTE." Applicant submits the cited portion of the cited reference fails to disclose, for example, "...in the control plane...." Applicant submits the Examiner has not made a *prima facie* showing of anticipation with respect to claim 42.

As yet another example, Applicant submits the cited portions of the cited reference fail to disclose "detecting a fault in the connection in the user plane." While the Examiner cites "(step 50 in Figure 4)," Applicant notes step 50 states "DEGRADATION EXCEEDS PERCENTAGE PREVIOUSLY CONFIGURED?" Applicant submits the cited portion of the cited reference fails to disclose, for example, "...in the user plane." Applicant submits the Examiner has not made a *prima facie* showing of anticipation with respect to claim 42. Therefore, Applicant submits that claim 42 is in condition for allowance.

The Examiner has rejected claims 1-9, 12-15, 18-26, 28-31, 33-40 and 43-44 under 35 U.S.C. §103(a) as allegedly being unpatentable Rochberger et al. (U.S. Patent No. 6,594,235) in view of Srinivasan et al. (U.S. Patent No. 6,304,549). Applicant respectfully disagrees.

Regarding claim 1, Applicant submits the cited portions of the cited references fail to render unpatentable the subject matter of claim 1. As an example, Applicant submits the cited portions of the cited references fail to render obvious "...wherein the control plane rerouting over the new connection occurs when a new connection selected characteristic of the new connection is better than the selected characteristic of the connection." While the Examiner cites "('YES' from the decision step 62 in Figure 4)," Applicant notes step 62 states "NEW ROUTE WITHIN ORIGINAL OPTIMIZATION PERCENTAGE AND BETTER THAN PRESENT ROUTE?" Applicant submits the cited portion of the cited reference fails to disclose, for example, "...a new connection selected characteristic...." Applicant submits the Examiner has not made a *prima facie* showing of obviousness with respect to claim 1.

As another example, Applicant submits the cited portions of the cited references fail to render obvious "when the status of the selected characteristic is determined to be unacceptable, initiating control plane rerouting of the connection." While the Examiner cites "(step 60 in Figure 4)," Applicant notes step 60 states, "CALCULATE REROUTE." Applicant submits the cited portion of the cited reference fails to disclose, for example, "...initiating control plane rerouting...." Applicant submits the Examiner has not made a *prima facie* showing of obviousness with respect to claim 1.

As yet another example, Applicant submits the cited portions of the cited references fail to render obvious "wherein the user connection monitoring function includes OAM continuity checking." While the Examiner cites "(Column 16 Line 58-66)" of the Srinivasan reference, Applicant notes the Examiner cites "(step 50 in Figure 4)" of the Rochberger reference with respect to "monitoring status of a selected characteristic of the connection using a user connection monitoring function." Applicant submits the cited portions of the cited reference do not appear to teach or suggest that "DEGRADATION EXCEEDS PERCENTAGE PREVIOUSLY CONFIGURED?" includes OAM continuity checking, especially with the cited portion of the Srinivasan reference merely mentioning "Operation and Maintenance (OAM) functions," but not "OAM continuity checking." Thus, Applicant

submits the Examiner has not made a *prima facie* showing of obviousness with respect to claim 1. Therefore, Applicant submits claim 1 is in condition for allowance.

Regarding claim 2, Applicant submits the cited portion of the cited reference fails to render unpatentable the subject matter of claim 2. As an example, Applicant submits the cited portions of the cited references fail to render obvious "wherein the selected characteristic includes continuity on the connection." While the Examiner cites "(Column 17 Line 1-4)" of the Srinivasan reference, Applicant notes Applicant has submitted arguments with respect to claim 1 from which claim 2 depends. Therefore, Applicant submits claim 2 is also in condition for allowance.

Regarding claim 3, Applicant submits the cited portion of the cited reference fails to render unpatentable the subject matter of claim 3. As an example, Applicant submits the cited portion of the cited reference fails to disclose or suggest "wherein the selected characteristic includes at least one of: data corruption on the connection, data loss on the connection, latency along the connection, and misinsertion of data on the connection." While the Examiner cites "(Column 2 Line 57-61)" of the Srinivasan reference, Applicant notes Applicant has submitted argument regarding the Srinivasan reference with respect to claim 1, from which claim 3 depends. Therefore, Applicant submits claim 3 is also in condition for allowance.

Regarding claim 4, Applicant submits the cited portion of the cited reference fails to render unpatentable the subject matter of claim 4. As an example, Applicant submits the cited portion of the cited reference fails to disclose or suggest "wherein the data communication network supports asynchronous transfer mode (ATM) protocol." While the Examiner cites "(Column 5 Line 2-8)" of the Srinivasan reference, Applicant notes Applicant has submitted argument regarding the Srinivasan reference with respect to claim 1, from which claim 4 depends. Therefore, Applicant submits claim 4 is also in condition for allowance.

Regarding claim 5, Applicant submits the cited portion of the cited reference fails to render unpatentable the subject matter of claim 5. As an example, Applicant submits the cited portion of the cited reference fails to disclose or suggest "wherein the control plane is a signaling plane." While the Examiner cites "(Column 5 Line 43 – Column 6 Line 12, see Figure 3)" of the Srinivasan reference, Applicant notes Applicant has submitted argument regarding the Srinivasan reference with respect to

claim 1, from which claim 5 indirectly depends. Therefore, Applicant submits claim 5 is also in condition for allowance.

Regarding claim 6, Applicant submits the cited portion of the cited reference fails to render unpatentable the subject matter of claim 6. As an example, Applicant submits the cited portion of the cited reference fails to disclose or suggest “wherein the signaling plane uses private network-to-network interface (PNNI).” While the Examiner cites “56” of the Srinivasan reference, Applicant notes Applicant has submitted argument regarding the Srinivasan reference with respect to claim 1, from which claim 6 indirectly depends. Therefore, Applicant submits claim 6 is also in condition for allowance.

Regarding claim 7, Applicant submits the cited portion of the cited reference fails to render unpatentable the subject matter of claim 7. As an example, Applicant submits the cited portion of the cited reference fails to disclose or suggest “wherein the connection is a soft permanent virtual connection (SPVC).” While the Examiner cites “(Column 2 Line 32)” of the Srinivasan reference, Applicant notes Applicant has submitted argument regarding the Srinivasan reference with respect to claim 1, from which claim 7 indirectly depends. Therefore, Applicant submits claim 7 is also in condition for allowance.

Regarding claim 8, Applicant submits the cited portion of the cited reference fails to render unpatentable the subject matter of claim 8. As an example, Applicant submits the cited portion of the cited reference fails to disclose or suggest “wherein the connection is a switched connection.” While the Examiner cites “(Figure 1)” of the Srinivasan reference, Applicant notes Applicant has submitted argument regarding the Srinivasan reference with respect to claim 1, from which claim 8 indirectly depends. Therefore, Applicant submits claim 8 is also in condition for allowance.

Regarding claim 9, Applicant submits the cited portion of the cited reference fails to render unpatentable the subject matter of claim 9. As an example, Applicant submits the cited portion of the cited reference fails to disclose or suggest “wherein the user connection monitoring function utilizes operation and management (OAM) traffic.” While the Examiner cites “(Column 16 Line 58-62)” of the Srinivasan reference, Applicant notes Applicant has submitted argument regarding the Srinivasan

reference with respect to claim 1, from which claim 9 indirectly depends. Therefore, Applicant submits claim 9 is also in condition for allowance.

Regarding claim 12, Applicant submits the cited portion of the cited reference fails to render unpatentable the subject matter of claim 12. As an example, Applicant submits the cited portion of the cited reference fails to disclose or suggest "wherein the user connection monitoring function includes OAM performance monitoring." While the Examiner cites "(Column 16 Line 58-66)" of the Srinivasan reference, Applicant notes Applicant has submitted argument regarding the Srinivasan reference with respect to claim 1, from which claim 12 indirectly depends. Therefore, Applicant submits claim 12 is also in condition for allowance.

Regarding claim 13, Applicant submits the cited portion of the cited reference fails to render unpatentable the subject matter of claim 13. As an example, Applicant submits the cited portion of the cited reference fails to disclose or suggest "wherein determining that the status of the selected characteristic is unacceptable further comprises determining that a property of the selected characteristic exceeds a predetermined threshold." While the Examiner cites "(Column 11 Line 39-42)" of the Rochberger reference, Applicant sees no mention, for example, of "...exceeds a predetermined threshold" in the cited portion of the Rochberger reference. Therefore, Applicant submits claim 13 is also in condition for allowance.

Regarding claim 14, Applicant submits the cited portion of the cited reference fails to render unpatentable the subject matter of claim 14. As an example, Applicant submits the cited portion of the cited reference fails to disclose or suggest "wherein the selected characteristic further comprises a plurality of selected characteristics, wherein each selected characteristic of the plurality of selected characteristics has a corresponding predetermined threshold, wherein determining that the status of the selected characteristic is unacceptable includes determining that a property corresponding to at least one selected characteristic of the plurality of selected characteristics exceeds the corresponding predetermined threshold for the at least one selected characteristics." While the Examiner cites "(Column 11 Line 18-26)" of the Rochberger reference, Applicant notes the cited portion of the Rochberger reference does not appear to mention, for example, "...wherein each selected characteristic of the plurality of selected characteristics has a corresponding predetermined threshold...." Therefore, Applicant submits claim 14 is also in condition for allowance.

Regarding claim 15, Applicant submits the cited portion of the cited reference fails to render unpatentable the subject matter of claim 15. As an example, Applicant submits the cited portion of the cited reference fails to disclose or suggest "wherein at least a portion of the corresponding predetermined thresholds for the plurality of selected characteristics is configurable." While the Examiner cites "(Column 11 Line 44-46)" of the Rochberger reference, Applicant does not see teaching, for example, of "...the corresponding predetermined thresholds for the plurality of selected characteristics...." Therefore, Applicant submits claim 15 is also in condition for allowance.

Regarding claim 23, Applicant submits the cited portion of the cited reference fails to render unpatentable the subject matter of claim 23. As an example, Applicant submits the cited portions of the cited references fail to render obvious "wherein the data stream is rerouted over the second connection only if a second connection status of the second connection selected characteristic is better than the status of the selected characteristic." While the Examiner cites "('YES' from the decision step 62 in Figure 4)," Applicant notes step 62 states "NEW ROUTE WITHIN ORIGINAL OPTIMIZATION PERCENTAGE AND BETTER THAN PRESENT ROUTE?" Applicant submits the cited portion of the cited reference fails to disclose, for example, "...the second connection selected characteristic...." Applicant submits the Examiner has not made a *prima facie* showing of obviousness with respect to claim 23.

As another example, Applicant submits the cited portions of the cited references fail to render obvious "a control block operably coupled to the source node and the destination node, wherein when status of a selected characteristic associated with the diagnostic traffic is determined to be unacceptable, the control block performs a control plane reroute that establishes a second connection that couples the source node and the destination node." While the Examiner cites "(step 60 in Figure 4)," Applicant notes step 60 states, "CALCULATE REROUTE." Applicant submits the cited portion of the cited reference fails to disclose, for example, "...the control block performs a control plane reroute that establishes a second connection that couples the source node and the destination node...." Applicant submits the Examiner has not made a *prima facie* showing of obviousness with respect to claim 23.

As yet another example, Applicant submits the cited portions of the cited references fail to render obvious "wherein the diagnostic traffic includes operation and management (OAM)

performance monitoring traffic." While the Examiner cites "(Column 16 Line 58-66)" of the Srinivasan reference, Applicant notes the Examiner cites "(step 50 in Figure 4)" of the Rochberger reference with respect to "a destination node operably coupled to the source node via a first connection that carries a data stream, wherein the source node injects diagnostic traffic into the data stream, wherein the destination node monitors the diagnostic traffic in the data stream." Applicant submits the cited portions of the cited reference do not appear to teach or suggest that "DEGRADATION EXCEEDS PERCENTAGE PREVIOUSLY CONFIGURED?" includes operation and management (OAM) performance monitoring traffic," especially with the cited portion of the Srinivasan reference merely mentioning "Operation and Maintenance (OAM) functions," but not "OAM performance monitoring traffic." Thus, Applicant submits the Examiner has not made a *prima facie* showing of obviousness with respect to claim 23.

As a further example, Applicant submits the cited portions of the cited references do not disclose "wherein the control block performs an evaluation of the second connection." While the Examiner cites "(step 62 in Figure 4)," Applicant notes step 62 states "NEW ROUTE WITHIN ORIGINAL OPTIMIZATION PERCENTAGE AND BETTER THAN PRESENT ROUTE?" Applicant submits the cited portion of the cited reference fails to disclose, for example, "wherein the control block performs...." Applicant submits the Examiner has not made a *prima facie* showing of obviousness with respect to claim 23.

As yet another example, Applicant submits the cited portions of the cited references do not disclose "wherein the diagnostic traffic verifies that a level of user plane performance that has been guaranteed to a user is being provided." While the Examiner cites "(step 62 in Figure 4)," Applicant notes step 62 states "NEW ROUTE WITHIN ORIGINAL OPTIMIZATION PERCENTAGE AND BETTER THAN PRESENT ROUTE?" Applicant submits the cited portion of the cited reference fails to disclose, for example, "wherein the diagnostic traffic verifies...." Applicant submits the Examiner has not made a *prima facie* showing of obviousness with respect to claim 23. Therefore, Applicant submits claim 23 is in condition for allowance.

Regarding claim 24, Applicant submits the cited portion of the cited reference fails to render unpatentable the subject matter of claim 24. As an example, Applicant submits the cited portions of the cited references fail to render obvious "wherein the data stream includes a plurality of

asynchronous transfer mode (ATM) cells." While the Examiner cites "(Column 5 Line 2-8)" of the Srinivasan reference, Applicant notes the cited portion states "Particularly, DIVA has been designed to use the ATM Forum's PNNI routing protocol which enables information about the network to be gathered and disseminated in a scalable manner." Applicant submits the cited portion does not disclose, for example, "...a plurality of asynchronous transfer mode (ATM) cells." Thus, Applicant submits the Examiner has not made a *prima facie* showing of obviousness with respect to claim 24. Therefore, Applicant submits claim 24 is in condition for allowance.

Regarding claim 25, Applicant submits the cited portion of the cited reference fails to render unpatentable the subject matter of claim 25. As an example, Applicant submits the cited portions of the cited references fail to render obvious "wherein the diagnostic traffic includes operation and management (OAM) continuity checking traffic." While the Examiner cites "(Column 16 Line 58-66)" of the Srinivasan reference, Applicant notes the cited portion states "As indicated at step 350, link failures, which may be both intermittent and permanent, may be detected by Operation and Maintenance (OAM) functions executed at different levels of the network hierarchy, namely, the physical layer OAM, ATM VP and VC layer OAM. Details of the Operation and Maintenance functions may be found in the reference ITU-T: Recommendation 1.610, B-ISDN Operation and Maintenance Principles and Functions, Rev. 1, Geneva, 1993." Applicant submits the cited portion does not disclose, for example, "... (OAM) continuity checking traffic," especially with the cited portion of the Srinivasan reference merely mentioning "Operation and Maintenance (OAM) functions," but not "OAM continuity checking traffic." Thus, Applicant submits the Examiner has not made a *prima facie* showing of obviousness with respect to claim 25. Therefore, Applicant submits claim 25 is in condition for allowance.

Regarding claim 26, Applicant submits the cited portion of the cited reference fails to render unpatentable the subject matter of claim 26. As an example, Applicant submits the cited portions of the cited references fail to render obvious "wherein the status of the selected characteristic is determined to be unacceptable when loss of continuity is detected for a time period that exceeds a predetermined threshold." While the Examiner cites "(step 58 in Figure 4)" of the Rochberger reference, Applicant notes the cited portion states "TIME EXPIRED?" Applicant submits the cited portion of the cited reference does not disclose, for example, "...a predetermined threshold." As another example, Applicant submits the cited portion of the cited reference does not disclose "...when

loss of continuity is detected for a time period...." Thus, Applicant submits the Examiner has not made a *prima facie* showing of obviousness with respect to claim 26. Therefore, Applicant submits claim 26 is in condition for allowance.

Regarding claim 28, Applicant submits the cited portion of the cited reference fails to render unpatentable the subject matter of claim 28. As an example, Applicant submits the cited portions of the cited references fail to render obvious "wherein the status of the selected characteristic is determined to be unacceptable when a property associated with OAM performance monitoring exceeds a predetermined threshold." While the Examiner cites "(Column 11 Line 39-42)" of the Rochberger reference and states "Srinivasan teaches OAM (Column 16 Line 58-62)," Applicant notes the Examiner does not allege anything as to combining the teachings of the cited references with respect to claim 28. Applicant submits an allegation of mere teaching of "OAM" does not render obvious, for example, "when a property associated with OAM performance monitoring exceeds a predetermined threshold. Thus, Applicant submits the Examiner has not made a *prima facie* showing of obviousness with respect to claim 28. Therefore, Applicant submits claim 28 is in condition for allowance.

Regarding claim 29, Applicant submits the cited portion of the cited reference fails to render unpatentable the subject matter of claim 29. As an example, Applicant submits the cited portions of the cited references fail to render obvious "wherein the predetermined threshold is configurable." Applicant has presented arguments for the allowability of claim 28, from which claim 29 depends. Therefore, Applicant submits claim 29 is also in condition for allowance.

Regarding claim 30, Applicant submits the cited portion of the cited reference fails to render unpatentable the subject matter of claim 30. As an example, Applicant submits the cited portions of the cited references fail to render obvious "wherein the first and second connections are soft permanent virtual circuits." While the Examiner cites "(Column 2 Line 32)" of the Srinivasan reference, Applicant notes the cited portion states "...Virtual Circuits (SPVCs)...." Applicant submits an allegation of mere teaching of "...Virtual Circuits (SPVCs)..." does not render obvious, for example, "wherein the first and second connections are soft permanent virtual circuits." Thus, Applicant submits the Examiner has not made a *prima facie* showing of obviousness with respect to claim 30. Therefore, Applicant submits claim 30 is in condition for allowance.

Regarding claim 31, Applicant submits the cited portion of the cited reference fails to render unpatentable the subject matter of claim 31. As an example, Applicant submits the cited portions of the cited references fail to render obvious "wherein the first and second connections are switched connections." Applicant has presented arguments for the allowability of claim 23, from which claim 31 depends. Therefore, Applicant submits claim 31 is also in condition for allowance.

Regarding claim 35, Applicant submits the cited portion of the cited reference fails to render unpatentable the subject matter of claim 35. As an example, Applicant submits the cited portions of the cited references fail to render obvious "wherein the selected characteristic includes at least one of: data corruption on the first connection, data loss on the first connection, latency along the first connection, and misinsertion of data on the first connection." While the Examiner cites "(Column 2 Line 57-61)" of the Srinivasan reference, Applicant notes the cited portion states "Dynamic management of VPC routes and resource allocations can be done by continuously monitoring the network and reacting to repeated congestion patterns, and topological changes caused by failures and additions of network elements such as links and nodes." Applicant submits the Examiner does not allege any particular aspect of the cited portion as teaching any particular "at least one of" the elements recited in claim 35. Thus, Applicant submits the Examiner has not made a *prima facie* showing of obviousness with respect to claim 35. Therefore, Applicant submits claim 35 is in condition for allowance.

Regarding claim 36, Applicant submits the cited portion of the cited reference fails to render unpatentable the subject matter of claim 36. As an example, Applicant submits the cited portions of the cited references fail to render obvious "...such that rerouting to the new connection occurs when at least one new connection-characteristic of the new connection is better than the at least one characteristic of the connection." While the Examiner cites "('YES' from the decision step 62 in Figure 4)," Applicant notes step 62 states "NEW ROUTE WITHIN ORIGINAL OPTIMIZATION PERCENTAGE AND BETTER THAN PRESENT ROUTE?" Applicant submits the cited portion of the cited reference fails to disclose, for example, "...at least one new connection-characteristic of the new connection...." Applicant submits the Examiner has not made a *prima facie* showing of obviousness with respect to claim 36.

, , wherein the control plane rerouting of the connection comprises evaluating a new connection

As another example, Applicant submits the cited portions of the cited reference fail to disclose "initiating control plane rerouting of the connection." While the Examiner cites "(step 60 in Figure 4)," Applicant notes step 60 states, "CALCULATE REROUTE." Applicant submits the cited portion of the cited reference fails to disclose, for example, "initiating control plane rerouting of the connection." Applicant submits the Examiner has not made a *prima facie* showing of anticipation with respect to claim 36.

As yet another example, Applicant submits the cited portions of the cited reference fail to disclose "wherein the OAM traffic comprises OAM continuity checking traffic, wherein the at least one characteristic includes continuity." While the Examiner cites "(Column 16 Line 58-66)" of the Srinivasan reference, Applicant notes the cited portion states "As indicated at step 350, link failures, which may be both intermittent and permanent, may be detected by Operation and Maintenance (OAM) functions executed at different levels of the network hierarchy, namely, the physical layer OAM, ATM VP and VC layer OAM. Details of the Operation and Maintenance functions may be found in the reference ITU-T: Recommendation 1.610, B-ISDN Operation and Maintenance Principles and Functions, Rev. 1, Geneva, 1993." Applicant submits the cited portion does not disclose, for example, "...OAM continuity checking traffic," especially with the cited portion of the Srinivasan reference merely mentioning "Operation and Maintenance (OAM) functions," but not "OAM continuity checking traffic." Thus, Applicant submits the Examiner has not made a *prima facie* showing of obviousness with respect to claim 36. Therefore, Applicant submits claim 36 is in condition for allowance.

Regarding claim 37, Applicant submits the cited portion of the cited reference fails to render unpatentable the subject matter of claim 37. As an example, Applicant submits the cited portions of the cited references fail to render obvious "wherein the connection is a soft permanent virtual connection (SPVC)." While the Examiner cites "(Column 2 Line 32)" of the Srinivasan reference, Applicant notes the cited portion states "...Virtual Circuits (SPVCs)...." Applicant submits an allegation of mere teaching of "...Virtual Circuits (SPVCs)..." does not render obvious, for example, "wherein the first and second connections are soft permanent virtual circuits." Thus, Applicant submits the Examiner has not made a *prima facie* showing of obviousness with respect to claim 37. Therefore, Applicant submits claim 37 is in condition for allowance.

Regarding claim 38, Applicant submits the cited portion of the cited reference fails to render unpatentable the subject matter of claim 38. As an example, Applicant submits the cited portions of the cited references fail to render obvious "wherein the connection is switched virtual connection (SVC)." While the Examiner cites "(Column 7 Line 61-65)" of the Srinivasan reference, Applicant notes the cited portion states "Since one of the functions performed by the connection servers is to receive UNI signaling messages requesting switch virtual connection (SVC) setup and determine routes within its PG to set up SVCs, then each connection server CS, knows the number of...." Applicant submits the mere mention of "switch virtual connection (SVC)" does not render obvious the subject matter of claim 38 in the context of the subject matter of claim 36, from which claim 38 depends. Thus, Applicant submits the Examiner has not made a *prima facie* showing of obviousness with respect to claim 38. Therefore, Applicant submits claim 38 is in condition for allowance.

Regarding claim 39, Applicant submits the cited portion of the cited reference fails to render unpatentable the subject matter of claim 39. As an example, Applicant submits the cited portions of the cited references fail to render obvious "wherein the control plane is a signaling plane." Applicant has presented arguments for the allowability of claim 36, from which claim 39 depends. Therefore, Applicant submits claim 39 is also in condition for allowance.

Regarding claim 40, Applicant submits the cited portion of the cited reference fails to render unpatentable the subject matter of claim 40. As an example, Applicant submits the cited portions of the cited references fail to render obvious "wherein the signaling plane uses private network-to-network interface (PNNI)." Applicant has presented arguments for the allowability of claim 36, from which claim 40 indirectly depends. Therefore, Applicant submits claim 40 is in condition for allowance.

Regarding claim 43, Applicant submits the cited portion of the cited reference fails to render unpatentable the subject matter of claim 43. As an example, Applicant submits the cited portions of the cited references fail to render obvious "wherein detecting a fault further comprises detecting a fault using operation and management (OAM) services running within the user plane." Applicant has submitted arguments for the allowability of claim 42, from which claim 43 depends. Therefore, Applicant submits claim 43 is also in condition for allowance.

Regarding claim 44, Applicant submits the cited portion of the cited reference fails to render unpatentable the subject matter of claim 44. As an example, Applicant submits the cited portions of the cited references fail to render obvious "wherein the connection is a soft permanent virtual connection (SPVC)." While the Examiner cites "(Column 2 Line 32)" of the Srinivasan reference, Applicant notes the cited portion states "...Virtual Circuits (SPVCs)...." Applicant submits an allegation of mere teaching of "...Virtual Circuits (SPVCs)..." does not render obvious, for example, "wherein the connection is a soft permanent virtual connection (SPVC)." Thus, Applicant submits the Examiner has not made a *prima facie* showing of obviousness with respect to claim 44. Therefore, Applicant submits claim 44 is in condition for allowance.

The Examiner has rejected claims 18-22 and 34 under 35 U.S.C. §103(a) as allegedly being unpatentable Rochberger et al. (U.S. Patent No. 6,594,235) in view of Srinivasan et al. (U.S. Patent No. 6,304,549) and further in view of Gan et al. (U.S. Patent Publication No. 2009/0040921). Applicant respectfully disagrees.

Regarding claim 18, Applicant submits the cited portions of the cited references fail to render unpatentable the subject matter of claim 18. As an example, Applicant submits the cited portion of the cited reference fails to disclose or suggest "wherein the data communication network supports Multi-Protocol Label Switching (MPLS)." Applicant notes the Examiner acknowledges "Rochberger in view of Srinivasan, however, does not teach the data communication network supports Multi-Protocol Label Switching (MPLS)." Applicant notes the Examiner alleges "Gan teaches the data communication network supports MPLS [0040]." While the Examiner alleges, "It would have been obvious to one skilled in the art to modify Rochberger in view of Srinivasan to support MPLS as taught by Gan in order to adapt to specific circuit oriented network [0005]," Applicant notes paragraph [0005] of the Gan reference states, "The connection-oriented network has an advantage over other types of network models...." Applicant submits the Examiner appears to characterize the Rochberger and Srinivasan references as not teaching such a network, which Applicant submits, leads to the appearance that the Gan reference teaches away from combination with the teachings of the other references. Thus, Applicant submits the Examiner has not made a *prima facie* showing of obviousness with respect to claim 18. Therefore, Applicant submits claim 18 is in condition for allowance.

Regarding claim 19, Applicant submits the cited portions of the cited references fail to render unpatentable the subject matter of claim 19. As an example, Applicant submits the cited portions of the cited references fail to render obvious "wherein the control plane includes at least one of Label Distribution Protocol (LDP) and ReSerVation Protocol (RSVP)." While the Examiner cites "[0044]" of the Gan reference, Applicant submits the Examiner does not allege any motivation or suggestion to combine the alleged teachings of the cited references. Thus, Applicant submits the Examiner has not made a *prima facie* showing of obviousness with respect to claim 19. Therefore, Applicant submits claim 19 is in condition for allowance.

Regarding claim 20, Applicant submits the cited portions of the cited references fail to render unpatentable the subject matter of claim 20. As an example, Applicant submits the cited portions of the cited references fail to render obvious "wherein the connection is a Label Switched Path (LSP)." While the Examiner cites "[0042]" of the Gan reference, Applicant submits the Examiner does not allege any motivation or suggestion to combine the alleged teachings of the cited references. Thus, Applicant submits the Examiner has not made a *prima facie* showing of obviousness with respect to claim 20. Therefore, Applicant submits claim 20 is in condition for allowance.

Regarding claim 21, Applicant submits the cited portions of the cited references fail to render unpatentable the subject matter of claim 21. As an example, Applicant submits the cited portion of the cited reference fails to disclose or suggest "wherein the user connection monitoring function monitors continuity along the connection." While the Examiner cites "(Column 16 Line 58-66)" of the Srinivasan reference, Applicant submits the Examiner does not allege any motivation or suggestion to combine the alleged teachings of the cited references. Thus, Applicant submits the Examiner has not made a *prima facie* showing of obviousness with respect to claim 21. Therefore, Applicant submits claim 21 is in condition for allowance.

Regarding claim 22, Applicant submits the cited portions of the cited references fail to render unpatentable the subject matter of claim 22. As an example, Applicant submits the cited portion of the cited reference fails to disclose or suggest "wherein the user connection monitoring function monitors at least one of: data corruption on the connection, data loss on the connection, latency along the connection, and misinsertion of data on the connection." While the Examiner cites "(Column 16 Line 58-66)" of the Srinivasan reference, Applicant submits the Examiner does not allege any motivation or

suggestion to combine the alleged teachings of the cited references. Thus, Applicant submits the Examiner has not made a *prima facie* showing of obviousness with respect to claim 22. Therefore, Applicant submits claim 22 is in condition for allowance.

Regarding claim 34, Applicant submits the cited portions of the cited references fail to render unpatentable the subject matter of claim 34. As an example, Applicant submits the cited portions of the cited references fail to render obvious "wherein the data stream is a Multi-Protocol Label Switching (MPLS) data stream and wherein the first and second connections correspond to label switched paths." The Examiner states, "Rochberger in view of Srinivasan, however, does not teach data stream is a Multi-Protocol Label Switching (MPLS) data stream and wherein the first and second connections correspond to label switched paths." The Examiner alleges "Gan teaches the data stream is a Multi-Protocol Label Switching (MPLS) data stream [0040] and wherein the first and second connections correspond to label switched paths [0042]." While the Examiner alleges, "It would have been obvious to one skilled in the art to modify Rochberger in view of Srinivasan to support MPLS and LSP as taught by Gan in order to adapt to specific circuit oriented network [0005]," Applicant notes paragraph [0005] of the Gan reference states, "The connection-oriented network has an advantage over other types of network models...." Applicant submits the Examiner appears to characterize the Rochberger and Srinivasan references as not teaching such a network, which Applicant submits, leads to the appearance that the Gan reference teaches away from combination with the teachings of the other references. Thus, Applicant submits the Examiner has not made a *prima facie* showing of obviousness with respect to claim 34. Therefore, Applicant submits claim 34 is in condition for allowance.

In conclusion, Applicant has overcome all of the Office's rejections, and early notice of allowance to this effect is earnestly solicited. If, for any reason, the Office is unable to allow the Application on the next Office Action, and believes a telephone interview would be helpful, the Examiner is respectfully requested to contact the undersigned attorney.

Respectfully submitted,

Date

07/20/2010



Attorney for Applicant(s)
Ross D. Snyder & Associates, Inc.
PO Box 164075
Austin, Texas 78716-4075
(512) 347-9223 (phone)
(512) 347-9224 (fax)